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To: Auditing-VVMailingList [REDACTED] 'state-audit-working-group' [REDACTED]  
[REDACTED]

Sent: Thu, 19 Mar 2009 4:03 pm

Subject: [Auditing] CA SoS requests comments on draft revisions to Post Election Manual Tally regulations

Several good points were discussed on today's call about the proposed draft revisions to California's current Post Election Manual Tally regulations. (a copy of the proposed changes is attached, and a summary is appended below).

We'd like to get more input from others who were not able to participate in today's teleconference, particularly about points raised on today's call.

Major points raised on today's call included the following:

(A) Section 20123 c reads as follows:

(c) In any contest voted upon in more than one jurisdiction, the elections official in each jurisdiction in which votes were cast in the contest shall conduct its own manual tally pursuant to this chapter. Any escalation required by section 20125, shall be determined based on the variance percentage within the jurisdiction. If within a jurisdiction the variance percentage in the manual tally conducted pursuant to section 20122, subdivision (b), is less than half (50%) of the overall margin of victory in the contest, based on the semifinal official canvass results, then no additional precincts must be manually tallied for the contest in that jurisdiction. If within a jurisdiction the variance percentage in the manual tally conducted pursuant to section 20122, subdivision (b), is at least half (50%) of the overall margin of victory in the contest, based on the semifinal official results, then additional precincts must be manually tallied pursuant to section 20125.

There are several questions regarding this important paragraph, including

(1) Is the variance percentage in the manual tally a net total (where gains cancel losses) or a total of absolute numbers of variances?

(2) What is the rationale for comparing the variance to half of the overall margin of victory?

It is not clear whether that variance would be more or less than enough to change an outcome.

(B) Judy B's email has already expressed concerns about not precluding technology like the Humboldt County Election Transparency Project used.

(C) It is not clear whether the definition of margin of victory defined in Section 20122

(a) (1) includes over-votes and undervotes in the denominator for determining percentages.  
Adding the word "overall" to modify "votes cast" does not make it clearer.

(D) Section 20122 (b) escalates the number of precincts that must be hand counted for "any contests in which the margin of victory is less than one half of one percent (0.5%)"  
- 2 to 20 for statewide contests;

- to 5% for legislative and Congressional contests and any contest involving 100 precincts or more;
- to 10% for contests with fewer than 100 precincts.

The trouble with these thresholds is that they might not be large enough for very close contests to yield convincing probabilities of detecting outcome-altering miscounts.

It would be good to calculate how good these probabilities would be in cases where the margin of victory is less than one half of one percent (0.5%) and smaller.

(E) several people suggested that California ought to require a full recount for contests that are closer than some defined threshold, or where there are sufficient discrepancies between machine counts and hand counts that might change the announced outcome.

Any other comments or suggestions would be appreciated.

John